

### REMARKS/ARGUMENTS

Claims 20 and 67-85 are pending in the present application. In the Office Action, all claims were rejected. In response to the Office Action, claims 20 and 67 have been amended. Additionally, Fig. 87D has been added and paragraphs [0054.1] to [0054.53] have been added to the specification. Paragraphs [0054.1] to [0054.53] were inadvertently omitted from the present application which is a continuation of parent application 09/544,930 now U.S. Patent No. 6,629,534. Paragraphs [0054.1] to [0054.53] were disclosed in the parent application 09/544,930 which was incorporated in the present application by reference. Therefore, no new subject matter has been added.

Additionally, Applicants would like to thank Examiner Ryckman for the helpful and courteous interview held on February 10, 2009 with Jonathan Feuchtwang, representative of the assignee of the present application. During the interview, various claim amendments were discussed.

### Drawings

In the Office Action, the drawings were objected to under 37 C.F.R. § 1.83(a) as failing to show the fastener being permanently implanted and removed from the catheter shaft. In response to the objection, Fig. 87D has been added to the drawings to illustrate these features. No new matter has been added as these features are described in paragraph 0164 and claims 20 and 67. Applicants respectfully request withdrawal of the objection.

### Claim Rejections – 35 U.S.C. § 102

In the Office Action, claims 20, 67 and 72-85 were rejected under 35 U.S.C. § 102(b) as being anticipated by Huebsch et al. (U.S. Patent No. 5,853,422). Such rejections are overcome for at least the following reasons.

Claim 20 has been amended to recite in part a pair of superior elements movably coupled to the catheter shaft near the distal end thereof, the superior elements comprising a radially adjustable loop, the loop including an extender element, wherein actuation of the

extender element or the catheter shaft radially adjusts the loop and, wherein the pair of superior elements are configured to engage the superior surfaces of the leaflets, the superior elements cooperating with the articulating arms to capture and pinch the valve leaflets therebetween thereby affixing the fastener to the valve leaflets, and

wherein the pair of articulating arms are moved radially independently of the pair of superior elements. Support for this amendment may be found in Figs. 86 and 87A-87C as well as the corresponding detailed description (e.g. paragraphs 0161-0165), therefore no new subject matter has been added. Support for the term "extender element" may be found *inter alia* in paragraph [0164] of the application as filed and may be seen as reference 1116 in Fig. 87B. Huebsch fails to teach or suggest each and every element of the claimed invention.

Huebsch discloses a catheter delivered device for closing a septal defect (Abstract). The device comprises a cylindrical shaft having flattened support struts (Abstract). The support struts move radially away from the device axis in a hinge like fashion as the device proximal and distal ends move toward one another (Abstract). The struts have hinges allowing the struts to move radially outward, but the struts are linear and do not form a radially adjustable loop, as recited by claim 20. Moreover, as the proximal and distal ends of Huebsch's device move toward one another, both proximal and distal sets of struts radially expand outward together. Huebsch fails to teach or suggest that the proximal and distal sets of struts move outwardly independent of one another. In fact, the struts cannot move independently of one another without modifying the device thereby changing the principle of operation. Therefore, Huebsch fails to teach or suggest that the pair of articulating arms are moved radially independently of the pair of superior elements, as also recited by amended claim 20.

Independent claim 67 already recites the feature that the pair of articulating arms and superior elements are moved independently of one another. Nevertheless, to further clarify the claimed invention, claim 67 has also been amended similarly to claim 20. Therefore, for at least the same reasons as discussed above, claim 67 is patently distinguishable from Huebsch.

Because Huebsch fails to teach or suggest each and every element of the claimed invention, anticipation cannot be established under 35 U.S.C. § 102(b). Applicants respectfully

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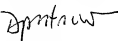
request withdrawal of the 35 U.S.C. § 102(b) rejection and allowance of independent claims 20 and 67 along with the claims depending therefrom.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

The Examiner is invited to telephone the undersigned attorney to resolve any issues and expedite prosecution of this application.

Respectfully submitted,



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